

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**CYNTHIA GILLETTE, Individually and  
Derivatively on behalf of nominal defendant  
BLIMPIE OF CALIFORNIA, INC.,**

**Plaintiff(s),**

**vs.**

**Case Number: 07 CIV 4697  
(CLB)**

**Affidavit of Dr. David Blum**

**JEFFREY ENDERVELT, BELLE ENDERVELT  
and DORA RICCI,**

**Defendants,**

**BLIMPIE OF CALIFORNIA, INC.,**

**Nominal Defendant**

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF WESTCHESTER )

Dr. David Blum, being duly sworn, deposes and says:

1. I am a Medical Doctor, specializing and licensed in Endocrinology and Internal Medicine. I am affiliated with Sound Shore Medical Center, New Rochelle, New York. I have been treating Defendant Belle Endervelt since July 2007. Since that time, I have been Mrs. Endervelt's primary care doctor. Mrs. Endervelt is ninety-two years old and of frail health.

2. Last month, I performed a mini-mental status examination ("MMSE") of Mrs. Endervelt. The MMSE is a widely used and widely referred to objective test to evaluate a patient's cognitive abilities. I have performed this test countless times. The MMSE is scored on a scale of 1 to 30, with 30 being the highest functioning level. Mrs. Endervelt scored a 20, which indicated that

she was on the upper end of moderately functioning and indicated cognitive impairment. Among the questions that Mrs. Endervelt was not able to answer was the date, the day of the week, the season of the year, and the State, the County and the building in which she was. (Upon information and belief, she has been living in Westchester, in New Rochelle New York since June 2007.) My diagnosis of Mrs. Endervelt is that she is suffering from dementia and short-term memory impairment.

3. Mrs. Endervelt suffers from a variety of physical impairments, some, if not all, of which limit her cognitive ability and her ability to meaningfully participate in any thing related to this case. Mrs. Endervelt is blind in her left eye, suffers from severe arthritis and osteoporosis; she ambulates only with the help of a walking apparatus. She is extremely frail and walking is painful and requires a great effort. Mrs. Endervelt suffers from neurocardiogenic syncope, which results in a decrease in blood pressure via an abnormal vascular reflex after an increase in heart rate, a condition that causes her to lose consciousness. Put simply, it is possible that an episode of emotional stress or excitement during which her heart rate might increases, could result in a drop in blood pressure with resultant loss of consciousness. It has also been reported to me that she also suffers from a seizure disorder with episodic seizures of undetermined frequencies and duration. Stress would certainly exacerbate these conditions.

4. Mrs. Endervelt is prescribed and takes various medicines. To treat her syncope, her heart condition, she is prescribed Toprol, an extended release beta-blocker, in amounts of one 50mg tablet per day. While it is not a tranquilizer or sedative, one of its known side effects is drowsiness. Additionally, Mrs. Endervelt is prescribed an anti-seizure medicine called Kepra, at a dosage of 500mg, two times per day. That drug's known side effects include somnolence and fatigue in a statistically significant percent of its users. She would need to take these medications in order to participate meaningfully in anything related to this case. However, they lessen her ability to

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participate.

Dated: New Rochelle, New York  
November 27, 2007

  
Dr. David Blum

Sworn to before me this  
21<sup>st</sup> day of November 2007

  
Notary Public

ALAN P. SISENWEIN  
Notary Public, State of New York  
No. 01514668352  
Qualified in Westchester County  
Commission Expires Jan. 31, 2011

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